

BOIES SCHILLER FLEXNER LLP  
Mark C. Mao (CA Bar No. 236165)  
mmao@bsfllp.com  
44 Montgomery Street, 41st Floor  
San Francisco, CA 94104  
Telephone: (415) 293 6858  
Facsimile: (415) 999 9695  
SUSMAN GODFREY L.L.P.  
William Christopher Carmody (pro hac vice)  
bcarmody@susmangodfrey.com  
Shawn J. Rabin (pro hac vice)  
srabin@susmangodfrey.com  
1301 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
Telephone: (212) 336-8330  
MORGAN & MORGAN  
John A. Yanchunis (pro hac vice)  
jyanchunis@forthepeople.com  
Ryan J. McGee (pro hac vice)  
rmcgee@forthepeople.com  
201 N. Franklin Street, 7th Floor  
Tampa, FL 33602  
Telephone: (813) 223-5505

*Attorneys for Plaintiffs; additional counsel  
listed in signature blocks below*

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP  
Andrew H. Schapiro (*pro hac vice*)  
andrewschapiro@quinnemanuel.com  
191 N. Wacker Drive, Suite 2700  
Chicago, IL 60606  
Telephone: (312) 705-7400  
Facsimile: (312) 705-7401

Stephen A. Broome (CA Bar No. 314605)  
stephenbroome@quinnemanuel.com  
Viola Trebicka (CA Bar No. 269526)  
violatrebicka@quinnemanuel.com  
865 S. Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
Telephone: (213) 443-3000  
Facsimile: (213) 443-3100  
Jomaire A. Crawford (admitted *pro hac vice*)  
jomairecrawford@quinnemanuel.com  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Facsimile: (212) 849-7100

*Attorneys for Defendant; additional counsel  
listed in signature blocks below*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, WILLIAM BYATT,  
JEREMY DAVIS, CHRISTOPHER  
CASTILLO, and MONIQUE TRUJILLO,  
individually and on behalf of all similarly  
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**JOINT SUBMISSION RE: SEALING  
PORTIONS OF THE ORDER OF THE  
JOINT DISCOVERY LETTER BRIEF  
RE REQUESTS FOR ADMISSIONS  
AND INTERROGATORY DISPUTES  
IN RESPONSE TO DKTS. 480, 481**

Referral: Hon. Susan van Keulen, USMJ

1 March 21, 2022

2 Submitted via ECF

3 Magistrate Judge Susan van  
4 Keulen San Jose Courthouse  
5 Courtroom 6 - 4th  
6 Floor 280 South 1st  
7 Street San Jose, CA  
8 95113

9 Joint Submission Re: Sealing Portions of Joint Discovery Letter Brief in  
10 Response to Dkt. 440  
11 *Brown v. Google LLC*, Case No. 4:20-cv-03664-YGR-SVK (N.D. Cal.)

12 Dear Magistrate Judge van Keulen:

13 Pursuant to Your Honor's March 14, 2022 Order regarding the Joint Discovery Letter  
14 Brief, Plaintiffs and Google LLC ("Google") jointly submit this statement.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Google respectfully seeks to seal the following portions of the Order re Joint Discovery Letter Briefs (“Order”), which contain Google’s confidential and proprietary information regarding highly sensitive features of Google’s internal systems and operations that Google does not share publicly, including details related to internal projects, data signals, and logs and their proprietary functionalities, as well as internal metrics and investigation into financial impact of certain features, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google’s competitors. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in Exhibit A of the Order:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
Exhibit A of the Order	Portions highlighted in Yellow at: Pages 1, 7, 11-21	Google

The parties conferred on the proposed redactions to the Order. Plaintiffs take no position on sealing the proposed redactions.

#### **I. LEGAL STANDARD**

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at \*4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”).

**II. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE” STANDARD AND SHOULD ALL BE SEALED**

Courts have repeatedly found it appropriate to seal documents that contain medical information or “business information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99; see also *Turner v. United States*, 2019 WL 4732143, at \*9 (finding good cause to seal “confidential medical information”). Good cause to seal is shown when a party seeks to seal materials that “contain[] confidential information about the operation of [the party’s] products and that public disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at \*1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive standing may be sealed even under the “compelling reasons” standard. See e.g., *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’ standard where that information could be used to the company’s competitive disadvantage”) (citation omitted).

Here, Exhibit A of the Order comprises confidential information regarding highly sensitive features of Google’s internal systems and operations that Google does not share publicly. Specifically, this information provides details related to internal projects, data signals, and logs and their proprietary functionalities, as well as internal metrics and investigation into financial impact of certain features. Such information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services while complying with legal and privacy obligations.

Public disclosure of the above-listed information would harm Google’s competitive standing it has earned through years of innovation and careful deliberation, by revealing sensitive aspects of Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone is a proper basis to seal such information. See, e.g., *Free Range Content, Inc. v. Google Inc.*, No. 14-cv-02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain sensitive business information related to Google’s processes and policies to ensure the integrity and security of a different advertising system); *Huawei Techs. Co. v. Samsung Elecs. Co.*

1 No. 3:16-cv-02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales  
2 data because “disclosure would harm their competitive standing by giving competitors insight they  
3 do not have”); *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at \*8 (W.D. Wash. May 8,  
4 2013) (granting motion to seal as to “internal research results that disclose statistical coding that is  
5 not publicly available”).

6 Moreover, if publicly disclosed, malicious actors may use such information to seek to  
7 compromise Google’s internal systems and data structures. Google would be placed at an increased  
8 risk of cybersecurity threats, and data related to its users could similarly be at risk. *See, e.g., In re*  
9 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at \*3 (N.D. Cal. Sept. 25, 2013) (sealing “material  
10 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”  
11 because if made public, it “could lead to a breach in the security of the Gmail system”). The security  
12 threat is an additional reason for this Court to seal the identified information.

13 The information Google seeks to redact is the minimal amount of information needed to  
14 protect its internal systems and operations from being exposed to not only its competitors but also  
15 to nefarious actors who may improperly seek access to and disrupt these systems and operations.  
16 The “good cause” rather than the “compelling reasons” standard should apply but under either  
17 standard, Google’s sealing request is warranted.

### 18 **III. CONCLUSION**

19 For the foregoing reasons, Google respectfully requests that the Court seal the identified  
20 portions of Exhibit A of the Order.  
21  
22  
23  
24  
25  
26

27 Respectfully,  
28

1 QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

2 /s/ Andrew H. Schapiro

3 Andrew H. Schapiro (admitted *pro hac vice*)  
andrewschapiro@quinnemanuel.com  
191 N. Wacker Drive, Suite 2700  
4 Chicago, IL 60606  
Tel: (312) 705-7400  
5 Fax: (312) 705-7401

6 Diane M. Doolittle (CA Bar No. 142046)  
dianedoolittle@quinnemanuel.com  
7 Sara Jenkins (CA Bar No. 230097)  
sarajenkins@quinnemanuel.com  
8 555 Twin Dolphin Drive, 5th Floor  
Redwood Shores, CA 94065  
9 Telephone: (650) 801-5000  
Facsimile: (650) 801-5100

10 Stephen A. Broome (CA Bar No. 314605)  
stephenbroome@quinnemanuel.com  
11 Viola Trebicka (CA Bar No. 269526)  
violatrebicka@quinnemanuel.com  
12 Crystal Nix-Hines (Bar No. 326971)  
crystalnixhines@quinnemanuel.com  
13 Alyssa G. Olson (CA Bar No. 305705)  
alyolson@quinnemanuel.com  
14 865 S. Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
15 Telephone: (213) 443-3000  
16 Facsimile: (213) 443-3100

17 Jomaire A. Crawford (admitted *pro hac*  
*vice*)  
jomairecrawford@quinnemanuel.com  
18 51 Madison Avenue, 22nd Floor  
New York, NY 10010  
19 Telephone: (212) 849-7000  
20 Facsimile: (212) 849-7100

21 Josef Ansorge (admitted *pro hac vice*)  
josefansorge@quinnemanuel.com  
22 Xi ("Tracy") Gao (CA Bar No. 326266)  
tracygao@quinnemanuel.com  
23 Carl Spilly (admitted *pro hac vice*)  
carlspilly@quinnemanuel.com  
24 1300 I Street NW, Suite 900  
Washington D.C., 20005  
25 Telephone: (202) 538-8000  
Facsimile: (202) 538-8100

26 Jonathan Tse (CA Bar No. 305468)  
jonathantse@quinnemanuel.com  
27 50 California Street, 22nd Floor  
San Francisco, CA 94111  
28

BOIES SCHILLER FLEXNER LLP  
/s/ Mark C. Mao

Mark C. Mao (CA Bar No. 236165)  
mcao@bsfllp.com  
Sean Phillips Rodriguez (CA Bar No.  
262437)  
srodriguez@bsfllp.com  
Beko Reblitz-Richardson (CA Bar No.  
238027)  
brichardson@bsfllp.com  
44 Montgomery Street, 41<sup>st</sup> Floor  
San Francisco, CA 94104  
Tel: (415) 293 6858  
Fax: (415) 999 9695

James W. Lee (*pro hac vice*)  
jlee@bsfllp.com  
Rossana Baeza (*pro hac vice*)  
rbaeza@bsfllp.com  
100 SE 2<sup>nd</sup> Street, Suite 2800  
Miami, FL 33130  
Tel: (305) 539-8400  
Fax: (305) 539-1304

William Christopher Carmody (*pro hac*  
*vice*)  
bcarmody@susmangodfrey.com  
Shawn J. Rabin (*pro hac vice*)  
srabin@susmangodfrey.com  
Steven Shepard (*pro hac vice*)  
sshepard@susmangodfrey.com  
Alexander P. Frawley (*pro hac vice*)  
afrawley@susmangodfrey.com  
SUSMAN GODFREY L.L.P.  
1301 Avenue of the Americas, 32<sup>nd</sup> Floor  
New York, NY 10019  
Tel: (212) 336-8330

Amanda Bonn (CA Bar No. 270891)  
abonn@susmangodfrey.com  
SUSMAN GODFREY L.L.P.  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067  
Tel: (310) 789-3100

John A. Yanchunis (*pro hac vice*)  
jyanchunis@forthepeople.com  
Ryan J. McGee (*pro hac vice*)  
rmcgee@forthepeople.com  
MORGAN & MORGAN, P.A.  
201 N Franklin Street, 7th Floor  
Tampa, FL 33602  
Tel: (813) 223-5505  
Fax: (813) 222-4736

1 Telephone: (415) 875-6600  
2 Facsimile: (415) 875-6700

3 *Attorneys for Defendant*

Michael F. Ram (CA Bar No. 104805)  
[mram@forthepeople.com](mailto:mram@forthepeople.com)

MORGAN & MORGAN, P.A.  
711 Van Ness Avenue, Suite 500  
San Francisco, CA 94102

Tel: (415) 358-6913

*Attorneys for Plaintiffs*

**ATTESTATION OF CONCURRENCE**

I am the ECF user whose ID and password are being used to file this Joint Submission.  
Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has  
concurred in the filing of this document.

Dated: March 21, 2022

By /s/ Andrew H. Schapiro  
Andrew H. Schapiro  
*Counsel on behalf of Google LLC*